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Montana Water Court

Attorney for Circle S Ranch, Inc.

**IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION MARIAS RIVER – BASIN 41P**

CLAIMANT: Circle S Ranch, Inc.

OBJECTOR: Circle S Ranch, Inc.

CASE NO. 41P-108

41P 28392-00
41P 28393-00
41P 28394-00
41P 28395-00
41P 28396-00
41P 28397-00
41P 28398-00
41P 28399-00
41P 28400-00
41P 28401-00

**CLAIMANT/OBJECTOR CIRCLE S RANCH, INC.'S
MOTION TO MODIFY CLAIMS TO RESOLVE OBJECTIONS
WITH SUPPORTING BRIEF AND AFFIDAVITS**

MOTION

COMES NOW, Claimant/Objector Circle S Ranch, Inc., by and through its undersigned counsel of record, and, in accordance with the Court's October 18, 2018 Order Granting Extension Request and Re-setting Filing Deadline and Mont. Code Ann. § 85-2-233(5)(a) moves the Court to modify certain elements of the above-captioned water rights to resolve Circle S Ranch's objections and to decree the above-captioned claims as proposed herein. In support of this motion, Circle S Ranch files the following brief and attached supporting affidavits.

BRIEF IN SUPPORT

I. Applicable Law and Burden of Proof

All of the above-captioned claims are owned solely by Circle S Ranch and none received DNRC issue remarks. However, Circle S Ranch filed timely objections to all of the above-captioned claims pursuant to Mont. Code Ann. § 85-2-233(2) to conform the claims to historical beneficial use. There were no other objections, counter-objections, or NOIAs filed against the above-captioned claims. All of the above-captioned claims are timely filed statements of claim and therefore prima facie proof of their contents. Mont. Code Ann. § 85-2-227. Therefore, Circle S Ranch's burden of proof for each assertion that a specific element(s) of the above-captioned claims is incorrect is preponderance of the evidence. Rule 19, W. R. Adj. R. To meet this burden, Circle S Ranch must demonstrate that the original claims "do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973." *Id.*

An implied claim is "a claim authorized by the water court to be separated and individually identified when a statement of claim includes multiple rights." Rule 2(a) (33), W.R.C.E.R. For the Water Court to authorize generation of an implied claim, the Water Court reviews the applicable facts to determine: (1) if the implied claim is supported by evidence of two water rights on the claim or documents attached to the claim; (2) the existence of evidence of actual historical use corroborating the implied claim; and (3) whether the implied claim would result in a change to the historical water use or incuse in the historical burden on other water users. *Or. Amend. & Partially Adopting Master's Rpt.*, Case 76HF-580, 20 (MT Water Court, Jan. 31, 2013). The burden to meet these criteria rest with the person or entity seeking recognition of an implied claim. *Id.*

II. Discussion

Circle S Ranch timely self-objected to the elements of the above-captioned claims to conform each claim to its historical use. In support of this motion Circle S Ranch submits the attached an

Affidavit of Water Resource Specialist Kyle Mace (01/25/2019) and Declaration of Circle S Ranch, Inc. President, Joe Perry (02/14/2019), which are attached hereto as **Exhibits A and B**, respectively. Mr. Mace's affidavit is intended to provide the technical support for the proposed corrections to the claims. Mr. Mace's proposed corrections were based on his education, training, and experience as a Water Resource Specialist, as well as interviews with Mr. Perry. Mr. Perry's Declaration confirms he has personal knowledge relating to the pre-July 1, 1973 historical uses of these water right claims. The specific corrections and clarifications to the above-captioned water rights are as follows:

A. Water Right Claim 41P 28392-00

Water right claim 41P 28392-00 is a use right from a groundwater well known as the "Schlepp House Well" with a claimed priority date of January 20, 1911. While the original claimed purpose was "domestic," the purpose carried into the Preliminary Decree was "lawn and garden" to water 10 acres in the NENESE 13-27N-2W, Pondera County. An informational remark states this water right claim is a "multiple use" of stock claim 41P 28394-00.

Circle S Ranch timely objected to several elements of this claim. Circle S Ranch moves the Court to modify these elements of claim 41P 28392-00 as follows:

- **Purpose:** Reinstate purpose to the original claim of "domestic" for 1 household. The purposes were erroneously amended to "lawn & garden" upon advice from DNRC during claims examination.
- **Place of Use:** Include S2SENE and N2NESE 13-27N-2W as a legal description to more accurately define the location of the 10 acres of domestic irrigation previously confirmed by DNRC.

- **Multiple Use Remark:** Correct the clerical error in the information remark to remove 41P 28394-00 and replace with 41P 28395-00. This claim is a multiple use of claim 41P 28395-00 (the stock claim for the “Schlepp House Well”).

A proposed abstract for claim 41P 28392-00 is attached as **Exh. A at Attach. 1.**

B. Water Right Claim 41P 28395-00

Water right claim 41P 28395-00 is a use right from a groundwater well known as the “Schlepp House Well” with a claimed priority date of January 20, 1911. The claimed purpose is “stock.” An informational remark states this water right claim is a “multiple use” of domestic claim 41P 28393-00.

Circle S Ranch timely objected to several elements of this claim. Circle S Ranch withdraws the objection to “purpose” because that is covered by the modifications to claim 41P 28392-00 that are discussed above.

Therefore, Circle S Ranch moves the Court to correct the clerical error in the multiple use information remark to remove 41P 28393-00 and replace with 41P 28392-00. This claim is a multiple use of claim 41P 28392-00 (the domestic claim for the “Schlepp House Well”), as noted above. **Exh A. at 2.** No other modifications are necessary. **Exh A. at 2.** A proposed abstract for claim 41P 28392-00 is attached as **Id. at Attach. 4.**

C. Water Right Claim 41P 28393-00

Water right claim 41P 28393-00 is a use right from a groundwater well known as the “Lawn & Garden Well” with a claimed priority date of January 20, 1911. The claimed purpose is “lawn and garden” to water 10 acres in the NENESE 13-27N-2W, Pondera County. An informational remark states this water right claim is a “multiple use” of stock claim 41P 28395-00.

Circle S Ranch filed a timely objection to several elements of this claim. Circle S Ranch moves the Court to modify these elements of claim 41P 28392-00 as follows:

- **Place of Use:** Add S2SENE and N2NESE 13-27N-2W legal description to more accurately define the location of the 10 acres of lawn and garden.
- **Multiple Use Remark:** Correct the clerical error in the information remark to remove 41P 2839~~5~~-00 and replace with 41P 2839~~4~~-00. This claim is a multiple use of claim 41P 28394-00 (the stock claim for the “Lawn & Garden Well”).

Exh. A at 1. A proposed abstract for claim 41P 28393-00 is attached hereto as *Id. at Attach. 2*.

D. Water Right Claim 41P 28394-00

Water right claim 41P 28394-00 is a use right from a groundwater well known as the “Lawn & Garden Well” with a claimed priority date of January 20, 1911. The claimed purpose is “stock”. An informational remark states this water right claim is a “multiple use” of domestic claim 41P 28392-00.

Circle S Ranch timely objected to the erroneous multiple use information remark only. Therefore, Circle S Ranch moves the Court to correct the clerical error in the information remark to remove 41P 2839~~2~~-00 and replace with 41P 2839~~3~~-00. This claim is a multiple use of claim 41P 28393-00 (the lawn & garden claim for the “Lawn & Garden Well”), as noted above. No other modifications are necessary. **Exh. A at 2.** A proposed abstract for claim 41P 28393-00 is attached hereto as *Id. at Attach. 3*.

E. Water Right Claim 41P 28396-00

Water right claim 41P 28396-00 is a filed direct from source stock right from South Pondera Coulee with a claimed priority date of October 23, 1952. The claimed point of diversion and place of use is the SWNE 18-27N-2W, Pondera County.

Circle S Ranch timely objected to several elements of this claim. Circle S Ranch moves the Court to modify these elements of claim 41P 28396-00 as follows:

- **Point of Diversion:** The points of diversion are the dams on the reservoir as well as directly from the coulee itself. Therefore, a point of diversion for the dam in the SESWNE 18-27N-1W should be added along with more specific legal descriptions for the coulee itself.
- **Means of Diversion:** Modify to reflect both the dam on the reservoir and direct from source.
- **Add Reservoir Records:** Add a reservoir record for the historical reservoir located in the SESWNE 18-27N-1W with a capacity of 14.8 AF.
- **Place of Use:** Refine the legal description of the place of use to include the entire reservoir an coulee; currently the upper end of the reservoir is omitted from the claimed place of use.
- **Multiple Use Remark:** Add a multiple use remark with claim 41P 28399-00.

Exh. A at 2; Exh. B at ¶ 5. A proposed abstract for claim 41P 28396-00 is attached hereto as **Exh. A at Attach. 5.**

F. Water Right Claim 41P 28397-00

Water right claim 41P 28397-00 is a filed direct from source stock claim for waste & seepage of an unnamed Tributary of South Pondera Coulee “a.k.a. Brady Coulee.” The claimed points of diversion and places of use are the coulee but fail to capture the two onstream reservoirs in their descriptions. The claimed priority date is November 6, 1924.

Circle S Ranch filed a timely objection to several elements of this claim. Circle S Ranch moves the Court to modify these elements of claim 41P 28397-00 as follows:

- **Priority Date:** The priority date should be modified to the date of first use, which was September 6, 1924; currently the priority date reflects the date the notice of appropriation was filed. **Exh. A at 2, Attach. 7).**

- **Point of Diversion:** The points of diversion are the dams on the reservoir as well as directly from the coulee itself. Therefore, a point of diversion for the dam in the SWSESE 13-27N-2W should be added along with more specific legal descriptions for the coulee itself.
- **Means of Diversion:** Modified to reflect both the dam on the reservoir and direct from source.
- **Add Reservoir Record:** Add a reservoir records for the historical reservoir located in the S2SE 13-27N-2W with a capacity of 44 AF.
- **Place of Use:** Refine the legal description of the place of use to include the entire reservoir and coulee; currently the upper end of the reservoir is omitted from the claimed place of use.
- **Multiple Use Remark:** Add a multiple use remark with claim 41P 28401-00.

Exh. A at 2; Exh. B at ¶ 6. A proposed abstract and aerial photograph depicting the points of diversion, reservoirs, and places of use are attached as **Exh. A at Attach. 6**.

Additionally, three implied claims should be generated from this stock claim to reflect the two sources described in the two unique Selma McClintock Notices of Appropriations dated September 6, 1924 and May 1, 1930. *See Exh. A at Attach. 7* for copies of the Notices of Appropriations. Each notice serves as the basis for two separate water rights because McClintock claimed “flood waste” (source 1) and “surface water” (source 2) from Schlepp Coulee and branches of Sought Pondera Coulee. The three implied stock claims should be generated and decreed with the elements described on the proposed abstracts attached as ***Id. at Attach. 6***. Each of these three implied stock claims are multiple uses of the implied irrigation claims discussed below under Water Right Claim 41P 28401-00.

G. Water Right Claim 41P 28398-00

Water right claim 41P 28398-00 is a use direct from source stock right from South Pondera Coulee with a claimed priority date of September 24, 1957. The onstream reservoir is not accounted for on the abstract reflected in the Preliminary Decree.

Circle S Ranch objected to all elements of this claim based on the missing reservoir record. While the Circle S Ranch objection indicated this water right may have also been used for irrigation purposes, Circle S Ranch withdraws that portion of its objection. Circle S Ranch moves the Court to modify the points of diversion, means of diversion, and add a reservoir record to claim 41P 28398-00 to reflect the fact that livestock drink both from the onstream reservoir as well as directly from the stream. **Exh. A at 2; Exh. B at ¶ 7.** These modifications are more particularly shown on the proposed abstract attached as **Exh. A at Attach. 8.**

H. Water Right Claim 41P 28399-00

Water right claim 41P 28399-00 is a filed irrigation right from South Pondera Coulee with a claimed priority date of October 23, 1952. The claimed point of diversion is a headgate in the SESWNE 18-27N-1W, Pondera County. No reservoir records for the onstream reservoirs were carried into the Preliminary Decree.

Circle S Ranch filed a timely objection to the following elements of this claim: flow rate; point of diversion; means of diversion; and other (add reservoir record and multiple use information remark). Circle S Ranch moves the Court to modify these elements of claim 41P 28399-00 as follows:

- **Flow Rate:** Remove the flow rate and replace with a decreed volume of 108 AF, which is the equivalent of a two-fill capacity. See Rules 14(d)(2) and 15(f), W.R.C.E.R.
- **Point of Diversion:** The points of diversion are the dams on the reservoirs, not a singular headgate. Modify to be consistent with reservoir descriptions below.

- **Means of Diversion:** Modify from “headgate” to “dam”.
- **Add Reservoir Records:** Add two reservoir records for the historical reservoirs located in: (1) the SESWNE 18-27N-1W with a capacity of 20 AF; and (2) the NENESE 13-27N-2W with a capacity of 34 AF.
- **Multiple Use Remark:** Add a multiple use remark with claim 41P 28396-00.

See **Exh. A at 3**. A proposed abstract and aerial photograph depicting the points of diversion, reservoirs, and places of use are attached as ***Id. at Attach. 9***.

I. Water Right Claim 41P 28400-00

This irrigation claim was mistakenly withdrawn by Circle S Ranch during claims examination after DNRC incorrectly determined it was duplicative of 41P 28401-00. Upon discovery of its mistake, Circle S Ranch timely objected to “all elements” of 41P 28400-00 so that it could be reinstated given it is based on a different notice of appropriation, with a different priority date, then water right claim 41P 238401-00. **Exh. A at 3**. The claims are not duplicative. ***Id. at 3***. The water right has been exercised in accordance to its historical elements. **Exh. B at ¶ 8**. The Court has plenary power to reinstate a previously withdrawn claim and have a preference for deciding cases on the merits rather than by default. *See Horvath v. Mont. Dept. Fish, Wildlife & Parks*, Case 76G-548, 2006 Mont. Water LEXIS 4, *6-7 (May 22, 2006), *Smith v. Foss*, 177 Mont. 443, 446, 582 P.2d 329, 331 (1978)(holding that if a court has jurisdiction over an action, the court has inherent power to enter or revise interlocutory orders as necessary when consonant with justice to do so). This claims should include a multiple use and a supplemental information remark.

Water right claim no. 41P 28400-00 should be decreed with the elements identified on the attached proposed abstract. **Exh. A at Attach. 10**. Since it is an irrigation claim from an onstream reservoir, no flow rate should be decreed; rather the claim should have a decreed volume. *See* Rules 14(d)(2) and 15(f), W.R.C.E.R. The points of diversion and means of diversion should be

modified to account for the onstream reservoir. The period of diversion for the primary point of diversion, the dam, should be listed as year-round. The secondary diversions for the drain ditches have a seasonal period of diversion. The maximum acres should be reduced from 160 to 110 acres and the place of use descriptions should be modified accordingly. *See* Rule 17(c), W. R. Adj. R. (no evidence is required to support reductions to element of a water right claim).

J. Water Right Claim 41P 28401-00

Water right claim 41P 28401-00 is a filed irrigation right from waste and seepage of an unnamed tributary of South Pondera Coulee that is also known as Brady Coulee. The claimed priority date is September 6, 1924. The claimed points of diversion are several drain ditches in 31-27N-2W, Pondera County. No reservoir records for the onstream reservoirs were carried into the Preliminary Decree.

Circle S Ranch filed a timely objection to several elements of this claim. Circle S Ranch moves the Court to modify these elements of claim 41P 28401-00-00 as follows:

- **Flow Rate:** Remove the flow rate and replace with a decreed volume of 88 AF, which is the equivalent of a two-fill capacity for the reservoir. *See* Rules 14(d)(2) and 15(f), W.R.C.E.R.
- **Point of Diversion:** The primary point of diversion is the dam, which should be added to the claim. The drain ditches are secondary points of diversion.
- **Period of Diversion:** The period of diversion for the primary point of diversion, the dam, should be listed as year-round. The secondary diversions for the drain ditches have a seasonal period of diversion.
- **Add A Reservoir Record:** Add one reservoir records for the historical reservoir located in: (1) the S2SE 13-27N-2W with a capacity of 44 AF.
- **Multiple Use Remark:** Add a multiple use remark with claim 41P 28397-00.

See **Exh. A at 3-4**. A proposed abstract and aerial photograph depicting the points of diversion, reservoirs, and places of use are attached as ***Id. at Attach. 11***.

Additionally, as discussed above under water right claim 41P 28397-00, two implied claims should be generated from this irrigation claim to reflect the two sources described in the two unique Selma McClintock Notices of Appropriations dated September 6, 1924 and May 1, 1930. **Exh. A at Attach. 7** for copies of the Notices of Appropriations. Each notice serves as the basis for two separate water rights, as more fully described in the enclosed Mace Affidavit and accompanying proposed abstracts. ***Id. at 3-4, Attach. 11***.

III. Conclusion

For the foregoing reasons, Circle S Ranch respectfully moves the Court to issue a Master's Report correcting the above-captioned water rights as discussed herein and as set forth in the attached proposed abstracts. In the event the Court requires additional information or evidence on any portion of the motion, Circle S Ranch respectfully requests the Court to afford Circle S Ranch the opportunity to obtain and provide said information to the Court within appropriate deadlines.

RESPECTFULLY SUBMITTED this 20th day of February, 2019.

ARB Law Group

By:



ABIGAIL R. BROWN

Attorney for Circle S Ranch, Inc.



Not a Notary
Public in the State of Montana
www.3Cnotary.com

Affidavit of Kyle Mace

Kyle Mace, being first duly sworn, deposes and states as follows:

Background Information

I am of legal age and reside in Missoula, Montana. I am a Water Resources Specialist for WGM Group, Inc. in Missoula. I have worked in the water rights field for over 8 years, both as an employee in the Montana Department of Natural Resources and Conservation (DNRC) Water Resources Division for over 3 years and more recently as a consultant. A major emphasis of my work throughout this period has been identifying and evaluating historic water use.

Case 41P-108

Circle S Ranch Inc ("Circle S") filed self-objections to their own water right claims, which were subsequently consolidated by the Water Court into Case 41P-108.

Circle S Ranch Inc

According to the Circle S Ranch President, Joe Perry, self-objections were filed because the claims appeared in the Preliminary Decree with incorrect elements. Mr. Perry has historical knowledge of water use on the property because his aunt and uncle, Albert and Nellie Schlepp, were the prior owners and they informed Mr. Perry of their water use practices that predated July 1, 1973.

Corrections to Statements of Claim

The following claims should be revised to reflect historical use in accordance with the Claim Examination Manual. The corrections to each claim are based on information from Joe Perry, historical and modern aerial photographs, and the claim files.

41P 28392 00- This claim is for Domestic and Lawn and Garden use from the "Schlepp House Well". The purpose was previously amended by the claimant to be Lawn and Garden use after receiving advice from DNRC to do so. However, the historical use of the claim includes household domestic use along with lawn and garden irrigation, so the purpose should be changed back to reflect the original claim of Domestic use. The DNRC confirmed the 10 irrigated acres as claimed, but the Place of Use needs to be refined to include the S2SENE Sec 13 as shown on the attached abstract and map. The Multiple Use remark needs to be corrected to reflect that 41P 28395 00 is a stock claim for this same well. (Proposed Abstract and Map, **Attachment 1**)

41P 28393 00- This claim is for Lawn and Garden use from the "Lawn & Garden Well". As with 28392, the place of use needs to be refined to include the S2SENE Sec 13 as shown on the attached abstract and map. The Multiple Use remark needs to be corrected to show that this claim is the same well as 28394 00. (Proposed Abstract and Map, **Attachment 2**)

41P 28394 00- This claim for stock use from the "Lawn & Garden Well" needs the Multiple Use remark updated to reflect that 28393 is a related claim from this same well. (Proposed Abstract, **Attachment 3**)

41P 28395 00- This claim for stock use from the "Schlepp House Well" needs the Multiple Use remark updated to reflect that 28392 is a related claim from this same well. (Proposed Abstract, **Attachment 4**)

41P 28396 00- This claim for stock use from South Pondera Coulee is a multiple use of irrigation claim 28399 and the remark should be updated accordingly. Livestock drink from two connected reservoirs in addition to livestock drinking directly from South Pondera Coulee. The point of diversion, means of diversion, place of use, and reservoir records should be revised as shown on the attached proposed abstract and maps. (**Attachment 5**)

41P 28397 00- This stock claim should be corrected to reflect the fact that livestock drink from the reservoir and directly from the stream. The points of diversion, means of diversion, and the reservoir record should be corrected as shown on the attached abstract and maps (**Attachment 6**). The place of use should be corrected to include Section 24, where the upper end of the reservoir lies. The priority date should be corrected to September 6, 1924, which is the date of first use as opposed to the filing date in the Notice of Appropriation.

In addition, this stock claim should have three implied claims generated to reflect the two sources described in each of the two unique Notices of Appropriation in the claim file. Selma McClintock filed two distinct Notices of Appropriation (NOA) for "flood waste" and "surface water" from "...Schlepp Coulee, and branch and branches of South Pondera Coulee...". One NOA has a priority date of September 6, 1924 and the other NOA has a priority date of May 1st, 1930 (see NOAs, **Attachment 7**). In summary, each NOA serves as the basis for two separate water rights as listed below.

Four stock claims from two NOAs:

41P 28397	9/6/1924	Waste & Seepage, UT South Pondera Coulee
41P xxxxx	9/6/1924	UT South Pondera Coulee
41P xxxxx	5/1/1930	Waste & Seepage, UT South Pondera Coulee
41P xxxxx	5/1/1930	UT South Pondera Coulee

Claim 28397 is a multiple use of irrigation claim 28401 and the three implied stock claims are each a multiple use of the three respective irrigation claims discussed below. The implied stock claims are shown on the proposed abstracts as part of Attachment 6.

41P 28398 00- This claim should reflect the fact that livestock drink from the reservoir as well as directly from the stream. The points of diversion, means of diversion, and reservoir record should be revised as shown on the attached proposed abstract and maps. (**Attachment 8**)

41P 28399 00- This irrigation claim should be corrected to reflect the two reservoirs previously discussed for the multiple use stock claim, 28396. The point of diversion and means of diversion should be changed to reflect the two dams and the reservoir records should also be added to the claim. The period of diversion for the dam should be year-round. In accordance with the Claim Examination Rules Manual, the flow rate should be removed, and the volume should be changed to the two-fill capacity of the reservoirs (108 Ac-Ft) as shown on the attached proposed abstract and maps. **(Attachment 9)**

41P 28400 00- This irrigation claim was withdrawn by Circle S after DNRC incorrectly determined that it was a duplicate of claim 28401. However, this claim should be reinstated because the two claims were based on different notices of appropriation with different priority dates and are therefore not duplicative. In addition, the acreage should be reduced from 160 acres to 110 acres within the claimed place of use. This claim irrigates an identical place of use as 28401, which was previously examined and accepted by DNRC as historically irrigated. The point of diversion should be changed to reflect the dam as the primary point of diversion, and the ditches should be identified as secondary points of diversion. The period of diversion for the dam should be year-round and the reservoir record should be updated as well. The priority date should be changed to reflect the May 1, 1930 date on the Notice of Appropriation in the claim file. In accordance with the Claim Examination Manual, the flow rate should be removed, and the 88 Ac-Ft volume should be added to the claim to reflect two fills of the reservoir. This claim should be identified as a multiple use with the 5/1/1930 Waste & Seepage implied stock claim that will be generated from 28397. A supplemental relationship remark should also be applied to reflect that this claim irrigates the same place of use as 28401 as well as the two implied irrigation claims discussed below. See the attached proposed abstract and maps. **(Attachment 10)**

41P 28401 00- This irrigation claim should have the point of diversion and means of diversion corrected to reflect the dam as the primary point of diversion and the current ditch diversions should be corrected as secondary points of diversion. The Claim Examination Manual directs that the flow rate should be removed, and a maximum volume of 88 Ac-Ft should be applied, which reflects the two-fill volume of the reservoir. The period of diversion for the dam should be listed as year-round, while the secondary diversions are seasonal (same corrections as 28400).

As previously discussed for 28397, this irrigation claim should have implied claims generated to reflect the two sources described in the two Notices of Appropriation in the claim files. Claim 28401 is based on the 5/1/1930 Waste & Seepage NOA, so two implied claims should be generated to cover the 9/6/1924 and 5/1/1930 water rights from the Unnamed Tributary (UT) of South Pondera Coulee.

Four irrigation claims from two NOAs:

41P 28401	9/6/1924	Waste & Seepage, UT South Pondera Coulee
41P xxxxx	9/6/1924	UT South Pondera Coulee
41P xxxxx	5/1/1930	UT South Pondera Coulee
41P 28400	5/1/1930	Waste & Seepage, UT South Pondera Coulee

Claim 28401 is a multiple use of stock claim 28397 and the two implied irrigation claims are each a multiple use of the respective implied stock claims generated from 28397 as shown on the attached proposed abstracts. (Attachment 11)

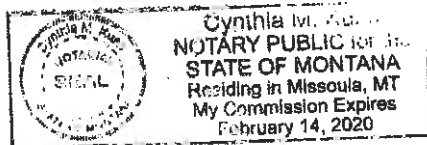
State of Montana)
) ss.
County of Missoula)

I, Kyle Mace, having been duly sworn, depose and say that I, being of legal age and being the person whose name is signed to this affidavit know the matters and things stated here are true and correct.

Kyle Mace

Date 1/25/19

Subscribed and sworn before me this 25th day of JANUARY 2019



Cynthia M - Kline
Notary Public for the State of Montana

Residing at MISSOULA, MT
My Commission expires 2/14/2020

11/08/2018

PROPOSED GENERAL ABSTRACT

Water Right Number: 41P 28392-00 STATEMENT OF CLAIM

Owners: CIRCLE S RANCH INC
PO BOX 131
BRADY, MT 59416

Priority Date: JANUARY 20, 1911

Enforceable Priority Date: JANUARY 20, 1911

Type of Historical Right: USE

Purpose (use): LAWN & GARDEN DOMESTIC (1 HOUSEHOLD)

Maximum Flow Rate: 20 GPM

Maximum Volume: 5.60 AC-FT

Maximum Acres: 10

Source Name: GROUNDWATER

Source Type: GROUNDWATER AKA SCHLEPP HOUSE WELL

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NENESE	13	27N	2W	PONDERA

Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: WELL

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	4		N2NESE	13	27N	2W	PONDERA
2	6		S2SENE	13	27N	2W	PONDERA

Total: 10.00

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

28392-00 ~~28394-00~~ 28395-00

CIRCLE S RANCH, CASE 41P-108

41P 28392-00

"Schlepp House Well", Topo Map

Legend

Point of Diversion

Stream

Circle S Ranch

Place of Use, 10 ac



LOC: Pondera County
TR: 27, 2W
BASE: Topo drg
FILE: 03b_28392_Propd_L1-3

PROJECT: 0721
DATE: 8.2019

This is a 3D perspective map of the project area. It is not a true representation of the terrain. The map is for informational purposes only. It is not to be used for any other purpose. The map is not to be used for any other purpose. The map is not to be used for any other purpose.

ABR 339.27N 1W

41P 28392.00

27N 2W

340

18

NWSE

L3

L4

L1

L2

NESE

SENE

NESE

SESE

South



11/8/2018

PROPOSED GENERAL ABSTRACT

Water Right Number: 41P 28393-00 STATEMENT OF CLAIM

Owners: CIRCLE S RANCH INC
PO BOX 131
BRADY, MT 59416

Priority Date: JANUARY 20, 1911

Enforceable Priority Date: JANUARY 20, 1911

Type of Historical Right: USE

Purpose (use): LAWN & GARDEN

Maximum Flow Rate: 20 GPM

Maximum Volume: 5.60 AC-FT

Maximum Acres: 10

Source Name: GROUNDWATER

Source Type: GROUNDWATER AKA LAWN & GARDEN WELL

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NENESE	13	27N	2W	PONDERA

Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: WELL

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	4		N2NESE	13	27N	2W	PONDERA
2	6		S2SENE	13	27N	2W	PONDERA

Total: 10.00

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

28393-00

28395-00 28394-00

CIRCLE S RANCH, CASE 41P-108

41P 28393-00

"Lawn/Garden Well", Topo Map

Legend

Point of Diversion

Stream

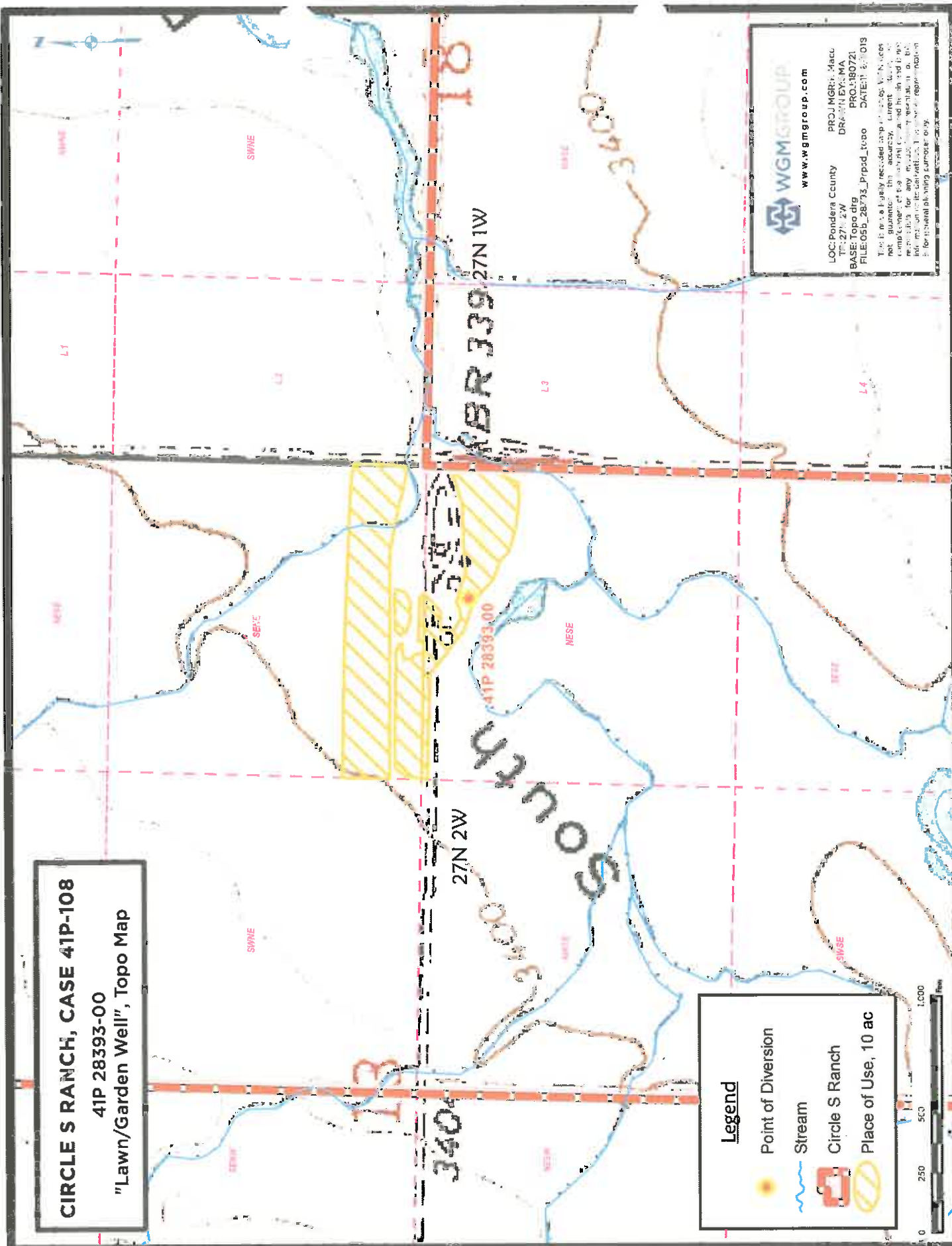
Circle S Ranch

Place of Use, 10 ac



LOC: Pondera County
T: 27N 2W
BASE: Topo drg
FILE: 05b_28393_Pripad_topo
DATE: 11/16/2013

This is not a legally recorded map. It is a representation of the information provided to the WGM Group. It is not intended to be used for any legal purpose. It is not a substitute for a professional survey. It is not a representation of the information provided to the WGM Group.



10/5/2018

PROPOSED GENERAL ABSTRACT**Water Right Number:** 41P 28394-00 STATEMENT OF CLAIM**Owners:** CIRCLE S RANCH INC
PO BOX 131
BRADY, MT 59416**Priority Date:** JANUARY 20, 1911**Enforceable Priority Date:** JANUARY 20, 1911**Type of Historical Right:** USE**Purpose (use):** STOCK**Maximum Flow Rate:** 20 GPM**Maximum Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.**Source Name:** GROUNDWATER**Source Type:** GROUNDWATER AKA LAWN & GARDEN WELL**Point of Diversion and Means of Diversion:**

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NENESE	13	27N	2W	PONDERA

Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: WELL

Period of Use: JANUARY 1 TO DECEMBER 31**Place of Use:**

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NENESE	13	27N	2W	PONDERA

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

28392-00 28393-00 28394-00

PROPOSED GENERAL ABSTRACT

Water Right Number: 41P 28395-00 STATEMENT OF CLAIM**Owners:** CIRCLE S RANCH INC
PO BOX 131
BRADY, MT 59416**Priority Date:** JANUARY 20, 1911**Enforceable Priority Date:** JANUARY 20, 1911**Type of Historical Right:** USE**Purpose (use):** STOCK**Maximum Flow Rate:** 20 GPM**Maximum Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.**Source Name:** GROUNDWATER**Source Type:** GROUNDWATER AKA SCHLEPP HOUSE WELL**Point of Diversion and Means of Diversion:**

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NENESE	13	27N	2W	PONDERA
Period of Diversion:		JANUARY 1 TO DECEMBER 31				
Diversion Means:		WELL				

Period of Use: JANUARY 1 TO DECEMBER 31**Place of Use:**

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NENESE	13	27N	2W	PONDERA

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

~~28393-00 28392-00~~ 28395-00

12/3/2018

PROPOSED GENERAL ABSTRACT

Water Right Number: 41P 28396-00 STATEMENT OF CLAIM

Owners: CIRCLE S RANCH INC
PO BOX 131
BRADY, MT 59416

Priority Date: OCTOBER 23, 1952 Enforceable Priority Date: OCTOBER 23, 1952

Type of Historical Right: FILED

Purpose (use): STOCK

Maximum Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Maximum Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: SOUTH PONDERA COULEE Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SESWNE	18	27N	1W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE DAM					
2		NENESE	13	27N	2W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	DAM					
3		SWNE	18	27N	1W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
4	L2		18	27N	1W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
5		N2SE	13	27N	2W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
6		W2SWSE	13	27N	2W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

Reservoir 1:

Type	Govt Lot	Qtr Sec	Section	Twp	Rge	County
DAM		SESWNE	18	27N	1W	PONDERA
Max Depth (ft)	Surface Area (ac)		Capacity (ac-ft)			
10	5		20			

Reservoir 2:

Type	Govt Lot	Qtr Sec	Section	Twp	Rge	County
DAM		NENESE	13	27N	2W	PONDERA
Max Depth (ft)	Surface Area (ac)		Capacity (ac-ft)			
10	8.5		34			

PROPOSED GENERAL ABSTRACT

(CONTINUED) Water Right Number: 41P 28396-00 STATEMENT OF CLAIM

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWNE	18	27N	1W	PONDERA
2	2		18	27N	1W	PONDERA
3		N2SE	13	27N	2W	PONDERA
4		W2SWSE	13	27N	2W	PONDERA

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

28396-00

28399-00

CIRCLE S RANCH, CASE 41P-108

41P 28396-00

South Pondera Coulee

Stock Direct, 2017 Aerial

Legend

-  Point of Diversion
-  Stock Direct POD/POU
-  Stream
-  Circle S Ranch
-  Stock POU
-  Res 1 = 5 ac
-  Res 2 = 8.5 ac



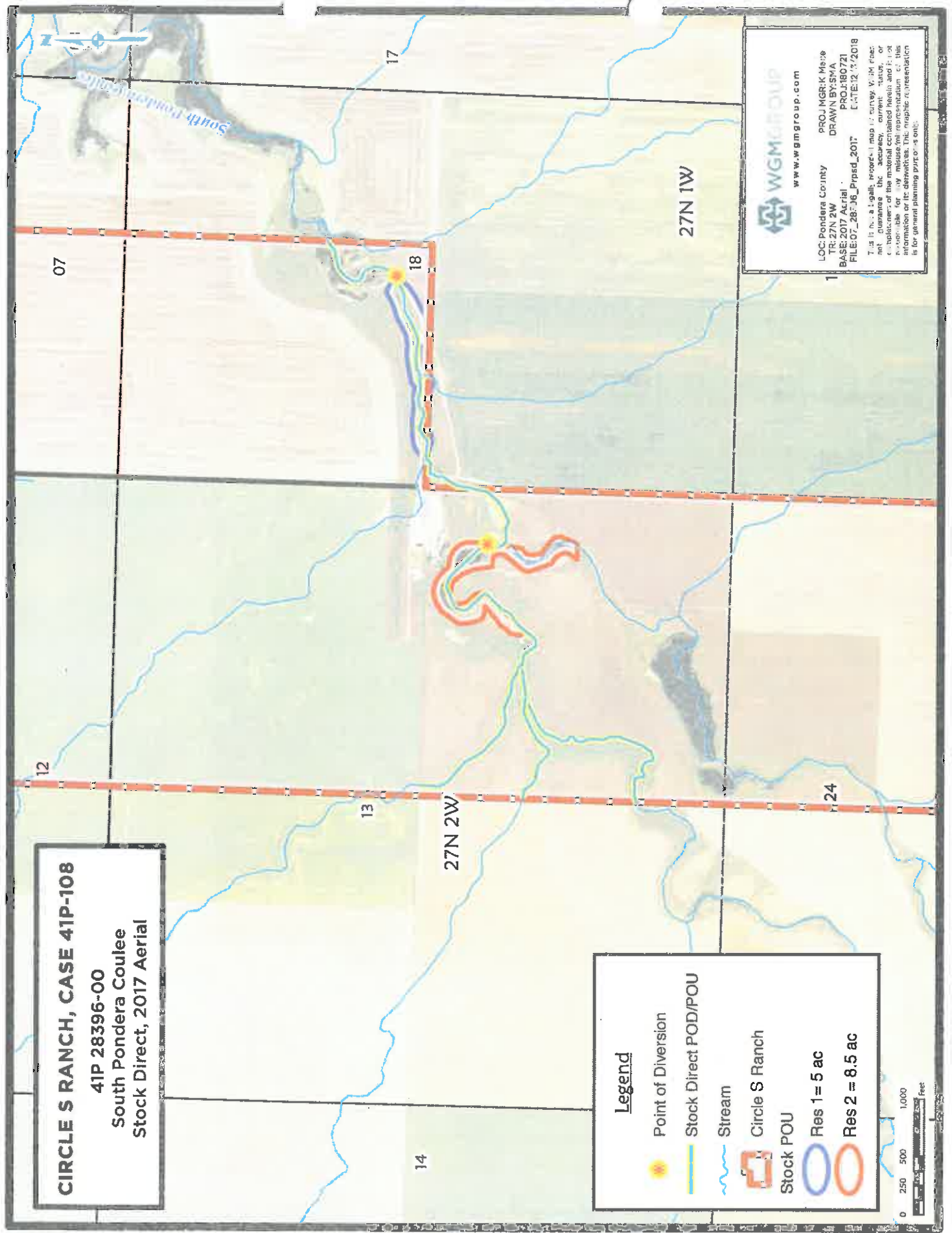


WGM GROUP
www.wgmgroup.com

LOC: Pondera County
TR: 27N 2W
BASE: 2017 Aerial
FILE: 07_28_16_Prosd_2017

PROJ MGR: K Meise
DRAWN BY: SMA
PROJ: 180721
DATE: 12/12/2018

This is a legal record map of survey work. It is not a guarantee of the accuracy of the information contained herein and is not to be used for any purpose other than the one for which it was prepared. The map is for general planning purposes only.



CIRCLE S RANCH, CASE 41P-108

41P 28396-00
 South Pondera Coulee
 Stock Direct, 1957 Aerial

Point of Diversion

Stock Direct POD/POU

Stream

Circle S Ranch
Stock POU

Res 1 = 5 ac

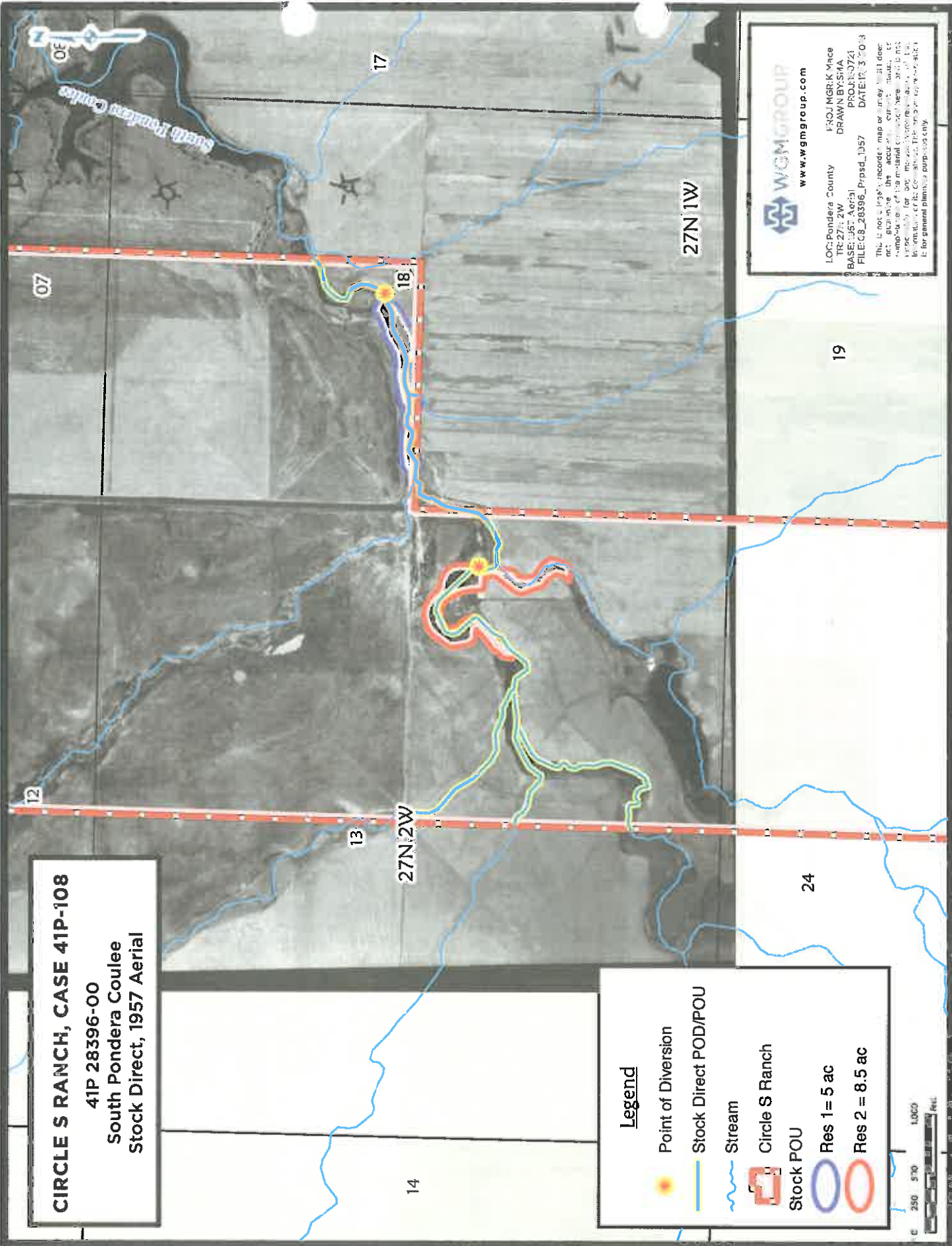
Res 2 = 8.5 ac

WGM GROUP
www.wgmgroup.com

LOC: Pondera County
 TR: 27N, 2W
 BASE: 1957 Aerial
 FILE: CB_28396_Prod_1357

PROJECT: 41P-108
 DRAWN BY: SNA
 DATE: 10/3/03

This is not a legally recorded map or survey. It does not guarantee the accuracy of the information shown. It is for general planning purposes only.



12/3/2018

PROPOSED GENERAL ABSTRACT

Water Right Number: 41P 28397-00 STATEMENT OF CLAIM

Owners: CIRCLE S RANCH INC
PO BOX 131
BRADY, MT 59416

Priority Date: ~~NOVEMBER 6, 1924~~ SEPTEMBER 6, 1924Enforceable Priority Date: ~~NOVEMBER 6, 1924~~ SEPTEMBER 6, 1924

Type of Historical Right: FILED

Purpose (use): STOCK

Maximum Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Maximum Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: WASTE & SEEPAGE, UNNAMED TRIBUTARY OF SOUTH PONDERA COULEE

Source Type: SURFACE WATER AKA BRADY COULEE

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSE	SE 13	27N	2W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE DAM					
2		SE	13	27N	2W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		N2NE	24	27N	2W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

Reservoir:

Type	Govt Lot	Qtr Sec	Section	Twp	Rge	County
DAM		S2SE	13	27N	2W	PONDERA

Max Depth (ft)	Surface Area (ac)	Capacity (ac-ft)
10	11	44

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SE	13	27N	2W	PONDERA
2		N2NE	24	27N	2W	PONDERA

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

28397-00 28401-00

41P 28397-00

CIRCLE S RANCH, CASE 41P-108
41P 28397-00
Waste & Seepage, UT So. Pondera Coulee
Stock Direct, 2017 Aerial

27N.1W

24

27°N 21W


41P 28397.00

Legend

- Point of Diversion
Stock Direct POD/
Stream
Circle S Ranch
Place of Use

Stock Direct POD/POU

Stream



Circle S Ranch

Place of Use



3 250 500 1000



WGM GROUP

www.wgmgroup.com

LOC: Pondwta County
TE: 277-2200
FR: 277-2200
RD: 277-2200

LOG: 101.43 H CA 11.2
TF: 27.2 W1

ASE-2017-361

1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 26

1037

1. *Lev. 19:11-13* (19:11-12, 13)

1. The first step is to identify the problem or question that needs to be answered.

and - 711 -

...critic...

'*L.*' genera; 'g' ... 'e' cr.

CIRCLE S RANCH, CASE 41P-108

41P 28397-00

Waste & Seepage, UT So. Pondera Coulee
Stock Direct, 1957 Aerial

Legend

Point of Diversion

Stock Direct POD/POU

Stream

Circle S Ranch

Place of Use



LOC: Pondera County
TR: 27N 2W
BASE: 5/29/1957 Aerial
FILE: C_4397_Prop_1_1957

PROJ MGR: K. M. H. H.
DP: M. H. H. H.
PRJ: C_4397
DATE: 12/15/2018

This is not a legally binding document. It is for general planning purposes only. It does not constitute a guarantee, warranty, or representation of any kind. The information contained herein is for general planning purposes only. It does not constitute a guarantee, warranty, or representation of any kind. The information contained herein is for general planning purposes only.

Kroegland Ditch

41P/28397-00

27N12W

27N11W

18

19

13

24

PROPOSED GENERAL ABSTRACT

Water Right Number: 41P Implied Claim (from 41P 28397 00) STATEMENT OF CLAIM

Owners: CIRCLE S RANCH INC
PO BOX 131
BRADY, MT 59416

Priority Date: NOVEMBER 6, 1924 SEPTEMBER 6, 1924

Enforceable Priority Date: NOVEMBER 6, 1924 SEPTEMBER 6, 1924

Type of Historical Right: FILED

Purpose (use): STOCK

Maximum Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Maximum Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: UNNAMED TRIBUTARY OF SOUTH PONDERA COULEE

Source Type: SURFACE WATER AKA BRADY COULEE

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSESE	13	27N	2W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	DAM					
2		SE	13	27N	2W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		N2NE	24	27N	2W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

Reservoir:

Type	Govt Lot	Qtr Sec	Section	Twp	Rge	County
DAM		S2SE	13	27N	2W	PONDERA
Max Depth (ft)	Surface Area (ac)		Capacity (ac-ft)			
10	11		44			

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SE	13	27N	2W	PONDERA
2		N2NE	24	27N	2W	PONDERA

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

XXXX-00 (IMPLIED STOCK, THIS CLAIM) XXXX-00 (IMPLIED IRRIGATION)

PROPOSED GENERAL ABSTRACT

Water Right Number: 41P Implied Claim (from 41P 28397 00) STATEMENT OF CLAIM

Owners: CIRCLE S RANCH INC
PO BOX 131
BRADY, MT 59416

Priority Date: NOVEMBER 6, 1924 MAY 1, 1930

Enforceable Priority Date: NOVEMBER 6, 1924 MAY 1, 1930

Type of Historical Right: FILED

Purpose (use): STOCK

Maximum Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Maximum Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: UNNAMED TRIBUTARY OF SOUTH PONDERA COULEE

Source Type: SURFACE WATER AKA BRADY COULEE

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSESE	13	27N	2W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	DAM					
2		SE	13	27N	2W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		N2NE	24	27N	2W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

Reservoir:

Type	Govt Lot	Qtr Sec	Section	Twp	Rge	County
DAM		S2SE	13	27N	2W	PONDERA
Max Depth (ft)	Surface Area (ac)		Capacity (ac-ft)			
10	11		44			

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SE	13	27N	2W	PONDERA
2		N2NE	24	27N	2W	PONDERA

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

XXXX-00 (IMPLIED STOCK, THIS CLAIM) XXXX-00 (IMPLIED IRRIGATION)

PROPOSED GENERAL ABSTRACT

Water Right Number: 41P Implied Claim (from 41P 28397 00) STATEMENT OF CLAIM

Owners: CIRCLE S RANCH INC
PO BOX 131
BRADY, MT 59416

Priority Date: NOVEMBER 6, 1924 MAY 1, 1930

Enforceable Priority Date: NOVEMBER 6, 1924 MAY 1, 1930

Type of Historical Right: FILED

Purpose (use): STOCK

Maximum Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Maximum Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: WASTE SEEPAGE, UNNAMED TRIBUTARY OF SOUTH PONDERA COULEE

Source Type: SURFACE WATER AKA BRADY COULEE

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSE	13	27N	2W	PONDERA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE DAM						
2		SE	13	27N	2W	PONDERA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
3		N2NE	24	27N	2W	PONDERA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						

Reservoir:

Type	Govt Lot	Qtr Sec	Section	Twp	Rge	County
DAM		S2SE	13	27N	2W	PONDERA
Max Depth (ft)						
10						
Surface Area (ac)						
11						
Capacity (ac-ft)						
44						

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SE	13	27N	2W	PONDERA
2		N2NE	24	27N	2W	PONDERA

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

XXXX-00 (IMPLIED STOCK, THIS CLAIM) XXXX-00 (IMPLIED IRRIGATION)

028397

NOTICE OF CLAIMANTS

State of Montana,
 ss.
 County of Pondera.

To All Whom These Presents May Concern:

Be It Known, That Selma McClinton, of Brady,
 Montana, in the County of Pondera, and State of Montana, do hereby declare
 and give notice to all persons concerned; that I have appropriated
 ten (10) cubic feet per second of time of the waters of flood waste
 and surface water of the ditch also the waste flood and surface
 water of the Brady Irrigation Co. and surrounding land, Schlepp
 coulee and branch and branches of South Pondera coulee and coulees
 in the County of Pondera and State of Montana, for useful and bene-
 ficial purposes.

And I do further declare as follows: First; That I do hereby
 claim ten (10) cubic feet per second of time of the waters of said
 coulee and land, according to the standard measurements of water
 prescribed by House Bill No. 29, Session Laws, Sixth Legislative
 Assembly of Montana.

Second; That the purpose for which the water is claimed is
 for agricultural purposes, and especially for irrigating land in
 the southwest ^{east} quarter of Section Thirteen (13) Township twenty-
 seven (27) North, Range Two (2) West, of Montana Meridian which
 is the place of intended use.

Third; That said waters are diverted from said stream by
 means of a reservoir tapping said stream upon its south bank at
 a point thereon situate two hundred and seventy-five (275) feet
 east of the Southeast (SE) corner of the Southwest Quarter of the
 Southeast Quarter (SW 1/4) of Section Thirteen (13) Township
 twenty-seven (27) North, Range Two (2) West of M. M. at a reser-
 voir ditch on the south bank of Schlepp coulee, ditch three (3)
 feet at the bottom and five (5) feet at top, (10 cubic feet of
 water) and running thence in a easterly direction to and across
 the above described land that the size of said ditch is thirty-

six (6) inches in width at the bottom thereof and thirty (30) inches across the top thereof, by eighteen (18) inches in depth.

Fourth; That said appropriations are made upon the 1st day of May A. D. 1930.

Fifth; That the name of the appropriator of said water right is Selma M. Whitcomb.

And I do hereby further claim the right to change the place of diversion of said water at any time, and to extend the ditches, flumes, pipes, aqueducts, by which said diversion is made from time to time to any place other than where first used, and to use the waters for other useful and beneficial purposes than that for which it was first appropriated.

And I also claim all the rights of way for ditches, flumes, aqueducts and reservoirs, dikes and canals, over and across the lands through which the same are constructed, and the right to enlarge and alter the same from time to time; and also all rights, easements, privileges and appurtenances thereto belonging or granted under and by virtue of all laws, both State and National, together with all and singular, the hereditaments and appurtenances thereto belonging or appearing, or to accrue to the same.

In Witness Whereof I have hereunto set my hand and seal this 3 day of May A. D. 1930.

Selma M. Whitcomb

628397

State of Montana,
County of Sanders, ss.

Selma M. McIntosh, being first duly sworn deposes and says that she is of lawful age and is the locator and appropriator of the waters and water right in the foregoing notice of water appropriation named; that she has read the foregoing notice of appropriation and knows the contents thereof; that the matters and things contained in said notice are true.

X Selma M. McIntosh

Subscribed and sworn to before me this 3 day of May, A. D. 1930.

Notarial Seal

W. B. Anderson
NOTARY PUBLIC for the State of Montana
Residing at Brady
My Commission Expires April 28, 1931

EXTRACT FROM HOUSE BILL NO. 29.

Section 1. Hereafter a cubic foot of water (7.48) per second of time shall be the legal standard for the measurement of water in this state.

Section 2. Where water rights expressed in miner's inches have been granted, one hundred miners' inches shall be considered equivalent to a flow of two and one-half cubic feet (18.7 gallons) per second; two hundred miners' inches shall be considered equivalent to a flow of five cubic feet (37.4 gallons) per second, and this proportion shall be observed in determining the equivalent flow represented by any number of miner's inches. (Approved March 3, 1899.)

ORDER OF ADJUDICATION.

State of Montana,
County of Pondera, ss.

Do All them whose Presents May Concern;

Be it Known, That Selma McClintock, of Brady, Montana, in the County of Pondera and State of Montana, do hereby declare and give notice to all persons concerned, that I have appropriated 10 (ten) cubic feet per second of time of the waters of flood waste and surface water of the ditch also the waste flood and surface water of the Brady Irrigation Co. and surrounding land, Schleppe Coulee and branch and branches of South Pondera coulee and coulees in the County of Pondera and State of Montana, for useful and beneficial purposes,

And I do further declare as follows; First; that I do hereby claim ten (10) cubic feet per second of time of the waters of said coulee and land, according to the standard measurements of water prescribed by House Bill No. 89, Session Laws, Sixth Legislative Assembly of Montana.

Second; That the purpose for which the water is claimed is for agricultural purposes, and especially for irrigating land in the south east quarter of Section Thirteen (13) Twp. twenty-seven (27) Range Two West of Montana Mer. 1. which is the place of intended use.

Third; That said waters are diverted from said stream by means of a reservoir ditch tapping said stream upon the north bank at a point thereon about 150 feet north and 170 feet east of the S.W. corner of the S.W. quarter of the S.E. quarter in Twp. 17. Range two (2) west of M.M. at a reservoir ditch on the north bank of Schleppe Coulee, ditch three (3) feet at the bottom and five (5) feet at top, (10 cubic feet of water) and running thence in a northeast direction to and across the above described land that the size of said ditch is eighteen (18) inches in width on the bottom thereof and 20 inches across the top thereof, by 18 inches in depth.

Fourth; That said appropriations is made upon the 6th.
day of September A.D. 1924.

Fifth; That the name of the appropriator of said water
right is Selma McClintock.

And I do hereby further claim the right to change the
place of diversion of said water at any time, and to extend
the ditches, flumes, pipes, aqueducts, by which said diver-
sion is made from time to time to any place other than where
first used, and to use the waters for other useful and bene-
ficial purposes than that for which it was first appropriated

And I also claim all the rights of way for ditches, flumes,
aqueducts and reservoirs, dikes and canals, over and across
the lands through which the same are constructed, and the right
to enlarge and alter the same from time to time; and also all
rights, easements, privileges and appurtenances thereto be-
longing or granted under and by virtue of all laws, both State
and National. Together with all and singular, the heredita-
ments and appurtenances thereto belonging or appertaining, or
to accrue to the same.

In Witness Whereof I have hereto set my hand and seal
this day of November A.D. 1924.

State of Montana,
County of Sanders.

Selma McClintock being duly sworn deposes and
says that she is of lawful age and is the locator and app-
ropriator of the waters and water right in the foregoing
notice of water appropriation named; that she has read the
foregoing notice of appropriation and knows the contents
thereof; that the matters and things contained in said
notice are true.

Subscribed and sworn to before me this 25th day of November
A.D. 1924.

NOTARY PUBLIC for the State of Montana
Residing at Great Falls, Montana
My Commission Expires December 31, 1925

028397

PROPOSED GENERAL ABSTRACT

Water Right Number: 41P 28398 00 STATEMENT OF CLAIM

Owners: CIRCLE S RANCH INC
PO BOX 131
BRADY, MT 59416

Priority Date: SEPTEMBER 24, 1957

Enforceable Priority Date: SEPTEMBER 24, 1957

Type of Historical Right: USE

Purpose (use): STOCK

Maximum Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Maximum Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVED BY THIS WATER SOURCE.

Source Name: SOUTH PONDERA COULEE

Source Type: SURFACE WATER AKA BRADY COULEE

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SESWSE	21	27N	2W	PONDERA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE DAM						
2		SWSE	21	27N	2W	PONDERA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
3		SESW	21	27N	2W	PONDERA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						

Reservoir:

Type	Govt Lot	Qtr Sec	Section	Twp	Rge	County
DAM		S2S2	21	27N	2W	PONDERA
Max Depth (ft)	Surface Area (ac)		Capacity (ac-ft)			
10	4.75		19			

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSE	21	27N	2W	PONDERA
2		SESW	21	27N	2W	PONDERA

CIRCLE S RANCH, CASE 41P-108

41P 28398-00
South Pondera Coulee
Stock, 2017 Aerial

Legend

Point of Diversion (Dam)

Stock Direct POD/POU

Stream

Circle S Ranch

Reservoir (10 ft deep)



LOC: Pondera County
TR: 27N 2W
BASE: 2017 Aerial
FILE: 41P_28398_Priusd_2017

PROJ: MGRK Maca
DRAWN BY: SMA
PROJECT: 0721
DATE: 11/29/2018

This is a preliminary map of survey. WGM does not guarantee the accuracy, current status, or reliability of the material contained herein and is not responsible for any errors or omissions. The information is for general planning purposes only.

CIRCLE S RANCH, CASE 41P-108

41P 28398-00

South Pondera Coulee

Stock, 1957 Aerial

Legend

Point of Diversion (Dam)

Stock Direct POD/POU

Stream

Circle S Ranch

Reservoir (10 ft deep)



LOC: Pondera County
TR: 27N 23W
BASE: 6, 1957 Aerial
FILE: 12_28398_Prsd_1957

PROJ: 180721
DATE: 11/29/2018
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Washed out

28

27N12W

41P 28398-00

South Pondera Coulee

South Pondera Coulee



11/8/2018

PROPOSED GENERAL ABSTRACT

Water Right Number: 41P 28399-00 STATEMENT OF CLAIM

Owners: CIRCLE S RANCH INC
PO BOX 131
BRADY, MT 59416

Priority Date: OCTOBER 23, 1952 Enforceable Priority Date: OCTOBER 23, 1952

Type of Historical Right: FILED

Purpose (use): IRRIGATION Irrigation Type: SPRINKER/FLOOD

Maximum Flow Rate: 1.52 CFS

THE FLOW RATE OF THIS CLAIM HAS BEEN REDUCED TO 17 GPM PER ACRE. THE FLOW RATE MAY BE CONTESTED BY PROPER OBJECTION. A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Maximum Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE. 108 AF

Maximum Acres: 24.04

Source Name: SOUTH PONDERA COULEE Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SESWNE	18	27N	1W	PONDERA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: DAM						
2		NENESE	13	27N	12W	PONDERA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: DAM						

Reservoir 1:

Type	Govt Lot	Qtr Sec	Section	Twp	Rge	County
DAM		SESWNE	18	27N	1W	PONDERA
Max Depth (ft)	Surface Area (ac)		Capacity (ac-ft)			
10	5		20			

Reservoir 2:

Type	Govt Lot	Qtr Sec	Section	Twp	Rge	County
DAM		NENESE	13	27N	2W	PONDERA
Max Depth (ft)	Surface Area (ac)		Capacity (ac-ft)			
10	8.5		34			

Period of Use: APRIL 1 TO OCTOBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	24.04		SWNE	18	27N	1W	PONDERA
Total:	24.04						

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

28396-00

28399-00

CIRCLE S RANCH, CASE 41P-108

41P 28399-00

South Pondera Coulee
Irrigation, 2017 Aerial

27N 2W

27N 1W

18

13

41P 28399 00

41P 28399 00

Legend

Point of Diversion

Stream

Circle S Ranch

Res 1 = 5 ac

Res 2 = 8.5 ac

IR pou 24.04 ac

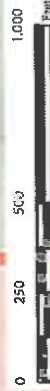


www.wgmgroup.com

LOC: Pondera County
TR: 27N 2W
BASE: 2017 Aerial
FILE: 13_28399_Propd_2017

PROJ MGR: K. Mace
DRAWN BY: SVA
FROM: 190721
DATE: 11/8/2017

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CIRCLE S RANCH, CASE 41P-108

41P 28399-00

South Pondera Coulee
Irrigation, 1957 Aerial

Legend

Point of Diversion

Stream

Circle S Ranch

Res 1 = 5 ac

Res 2 = 8.5 ac

IR pou 24.04 ac



LOC: Pondera County
TR: 27N 2W
BASE: 5/29/1957 Aerial
FILE: 4_28399_Ppsd_1957

PROJ: MGR: K Mace
DRAWN BY: SMA
PROJ: 190721
DATE: 11/9/2018

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PROPOSED GENERAL ABSTRACT

Water Right Number: 41P 28400-00 STATEMENT OF CLAIM ~~WITHDRAWN~~: ACTIVE

Owners: CIRCLE S RANCH INC
PO BOX 131
BRADY, MT 59416

Priority Date: ~~MAY 5, 1930~~ MAY 1, 1930
Enforceable Priority Date: ~~MAY 5, 1930~~ MAY 1, 1930

Type of Historical Right: FILED

Purpose (use): IRRIGATION Irrigation Type: FLOOD

Maximum Flow Rate: ~~6.06 CFS~~ THE FLOW RATE OF THIS CLAIM HAS BEEN REDUCED TO 17 GPM PER ACRE. THE FLOW RATE MAY BE CONSTESTED BY PROPER OBJECTION. A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Maximum Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE. 88 AF

Climatic Area: 3 - MODERATE

Maximum Acres: ~~460~~ 110

Source Name: WASTE & SEEPAGE, UNNAMED TRIBUTARY OF SOUTH PONDERA COULEE
AKA BRADY COULEE

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1 (PRIMARY)		SWSSE	13	27N	2W	PONDERA
Period of Diversion:	APRIL 1 TO OCTOBER 31 JANUARY 1 TO DECEMBER 31					
Diversion Means:	DAM					
1 (SECONDARY)		SWSSE	13	27N	2W	PONDERA
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	DRAIN DITCH					
2 (SECONDARY)		SWSWSE	13	27N	2W	PONDERA
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	DRAIN DITCH					
3 (SECONDARY)		SWSWSE	13	27N	2W	PONDERA
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	DRAIN DITCH					
Ditch Name:				KROEGLAND DITCH		

Reservoir 1:

Type	Govt Lot	Qtr Sec	Section	Twp	Rge	County
DAM		S2SE	13	27N	2W	PONDERA
Max Depth (ft)	Surface Area (ac)		Capacity (ac-ft)			
10	11		44			

Period of Use: APRIL 1 TO OCTOBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	460 110		SE	13	27N	2W	PONDERA
Total:	460 110						

PROPOSED GENERAL ABSTRACT

(continued:) Water Right Number: 41P 28400-00 STATEMENT OF CLAIM ~~WITHDRAWN~~ ACTIVE

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

28400-00 IMPLIED CLAIM FROM 28397 (STOCK, 5/1/1930, W&S)

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

28400-00 28401-00 XXXXX-00 XXXXX-00

CIRCLE S RANCH, CASE 41P-108

41P 28400-00

Waste & Seepage, UT So. Pondera Coulee
Irrigation, 2017 Aerial



LOC: Priddy, County PROJ: MGRK 1300
TR: 27N 1W DRAIN: B2800A
B-SE: 2017 DATE: 1/9/2018
FILE: IS_28400_P108_0017
This is a preliminary map for informational purposes only. It is not a legal document and should not be used for legal purposes. The information contained herein is for general informational purposes only.

Legend

- Primary POD
- Secondary POD
- Stream
- Circle S Ranch
- Place of Use, 110 ac
- Res = 11 ac

27N 2W

27N 1W

24

13

18



CIRCLE S RANCH, CASE 41P-108

41P 28400-00

Waste & Seepage, UT So. Pondera Coulee
Irrigation, 1957 Aerial



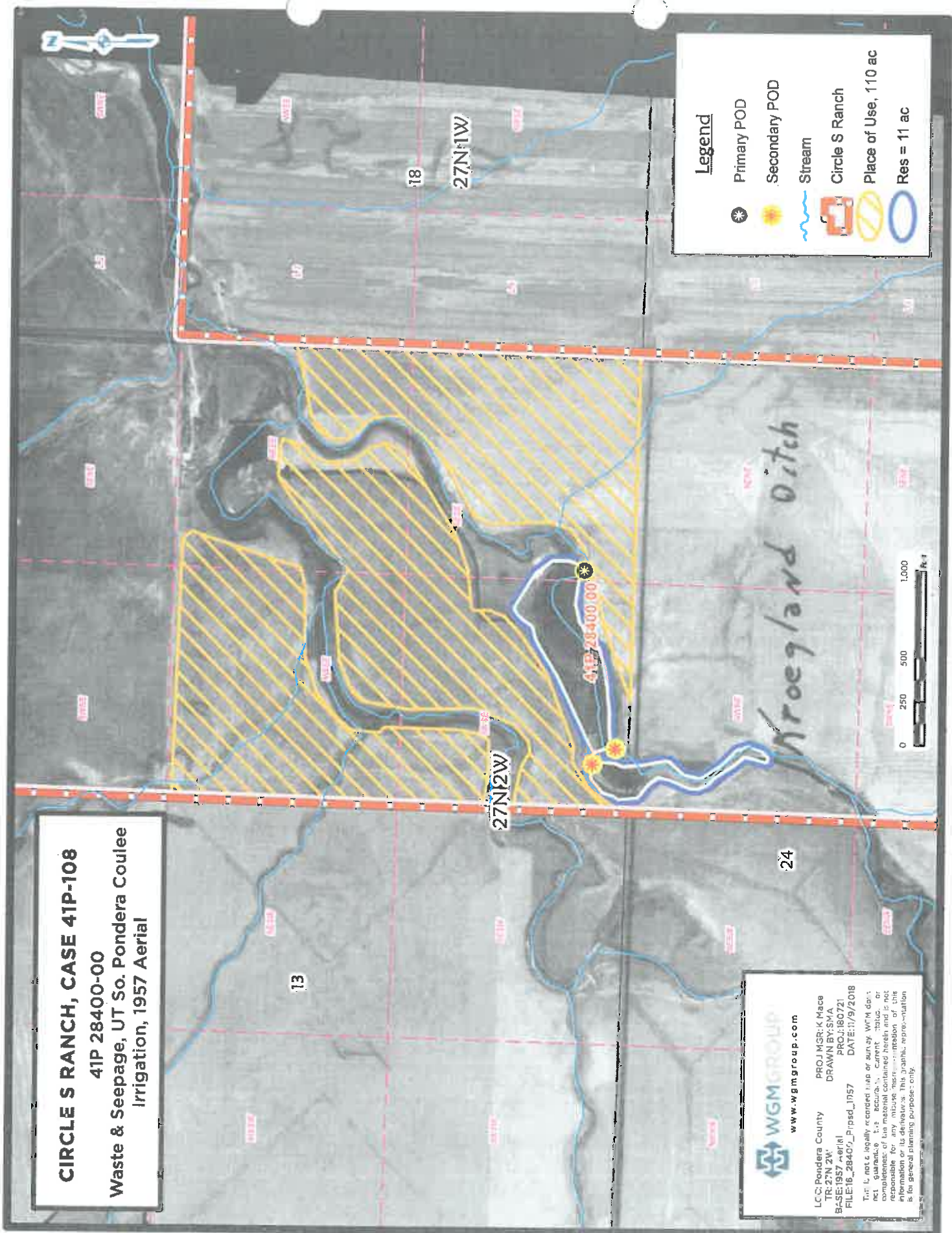
LCC: Pondera County PROJ MGR: K. Mace
TR: 27N 24W DRAWN BY: S.M.A.
BASE: 1957 Aerial PROJ: 180721
FILE: 18_28400_00_P108_1057 DATE: 11/9/2018

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Legend

- Primary POD
- Secondary POD
- Stream
- Circle S Ranch
- Place of Use, 110 ac
- Res = 11 ac

Wroegland Ditch



12/3/2018

PROPOSED GENERAL ABSTRACT

Water Right Number: 41P 28401-00 STATEMENT OF CLAIM

Owners: CIRCLE S RANCH INC
PO BOX 131
BRADY, MT 59416

Priority Date: SEPTEMBER 6, 1924

Enforceable Priority Date: SEPTEMBER 6, 1924

Type of Historical Right: FILED

Purpose (use): IRRIGATION Irrigation Type: FLOOD

Maximum Flow Rate: 4.17 CFS

THE FLOW RATE OF THIS CLAIM HAS BEEN REDUCED TO 17 GPM PER ACRE. THE FLOW RATE MAY BE CONTESTED BY PROPER OBJECTION. A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Maximum Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE. 88 AF

Climatic Area: 3 - MODERATE

Maximum Acres: 110

Source Name: WASTE & SEEPAGE, UNNAMED TRIBUTARY OF SOUTH PONDERA COULEE
Source Type: SURFACE WATER AKA BRADY COULEE

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1 (PRIMARY)		SWSESE	13	27N	2W	PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	DAM					
1 (SECONDARY)		SWSESE	13	27N	2W	PONDERA
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	DRAIN DITCH					
2 (SECONDARY)		SWSWSE	13	27N	2W	PONDERA
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	DRAIN DITCH					
3 (SECONDARY)		SWSWSE	13	27N	2W	PONDERA
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	DRAIN DITCH					
				Ditch Name:	KROEGLAND DITCH	

Reservoir:

Type	Govt Lot	Qtr Sec	Section	Twp	Rge	County
DAM		S2SE	13	27N	2W	PONDERA
Max Depth (ft)	Surface Area (ac)		Capacity (ac-ft)			
10	11		44			

Period of Use: APRIL 1 TO OCTOBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	110		SE	13	27N	2W	PONDERA
Total:	110						

PROPOSED GENERAL ABSTRACT

(continued:) Water Right Number: 41P 28401-00 STATEMENT OF CLAIM

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

28397-00 28401-00

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

28400-00 28401-00 XXXXX-00 XXXXX-00

CIRCLE S RANCH, CASE 41P-108

41P 28401-00

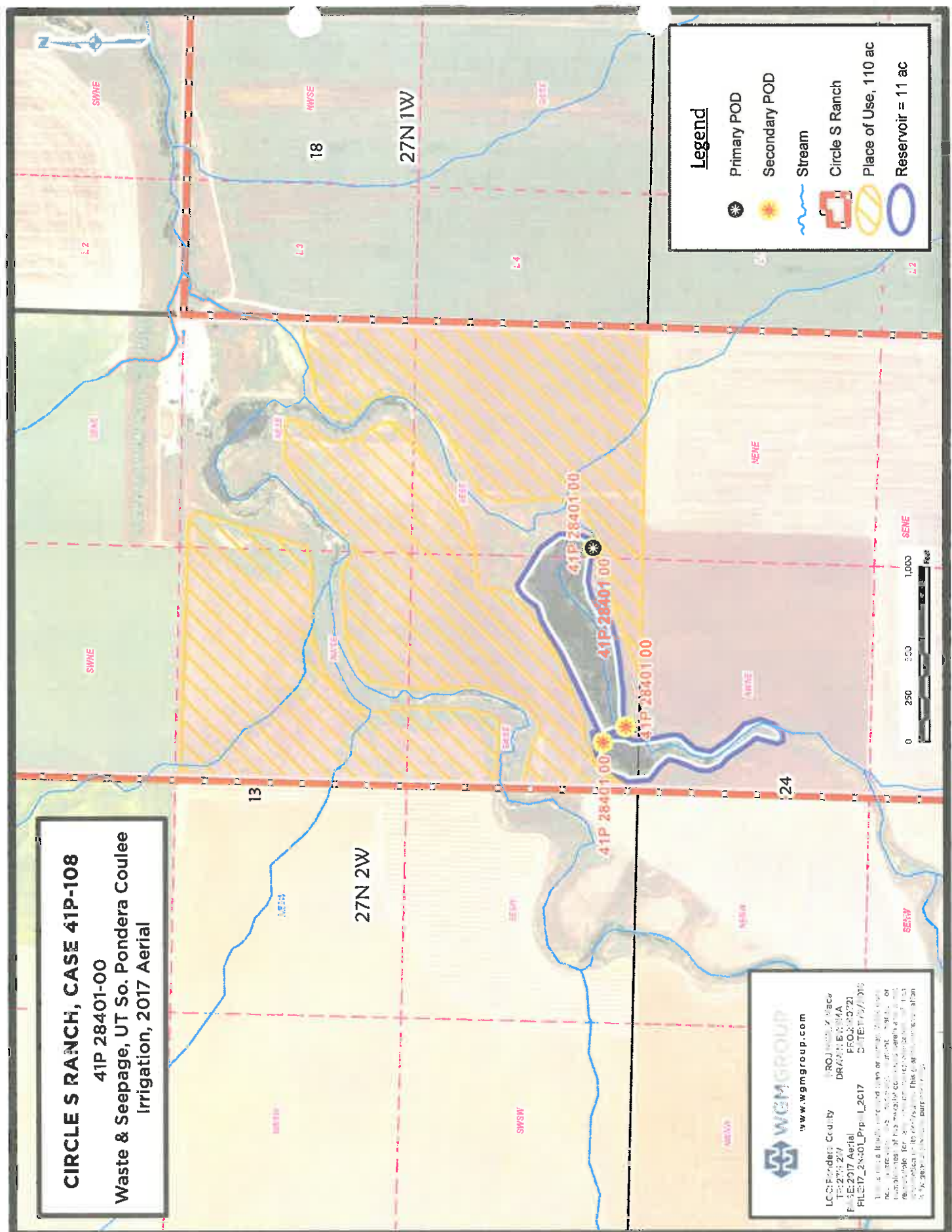
**Waste & Seepage, UT So. Pondera Coulee
Irrigation, 2017 Aerial**



LCR/Ernst & Young
T00275-217
F05E2017 Aerial
PROJECT: 28401-00
DATE: 12/27/2017
PROJECT: 28401-00
DATE: 12/27/2017
PROJECT: 28401-00
DATE: 12/27/2017

Legend

- Primary POD
- Secondary POD
- Stream
- Circle S Ranch
- Place of Use, 110 ac
- Reservoir = 11 ac



CIRCLE S RANCH, CASE 41P-108

41P 28401-00

Waste & Seepage, UT So. Pondera Coulee
Irrigation, 1957 Aerial

Primary POD

Secondary POD

Stream

Circle S Ranch

Place of Use, 110 ac

Reservoir = 11 ac

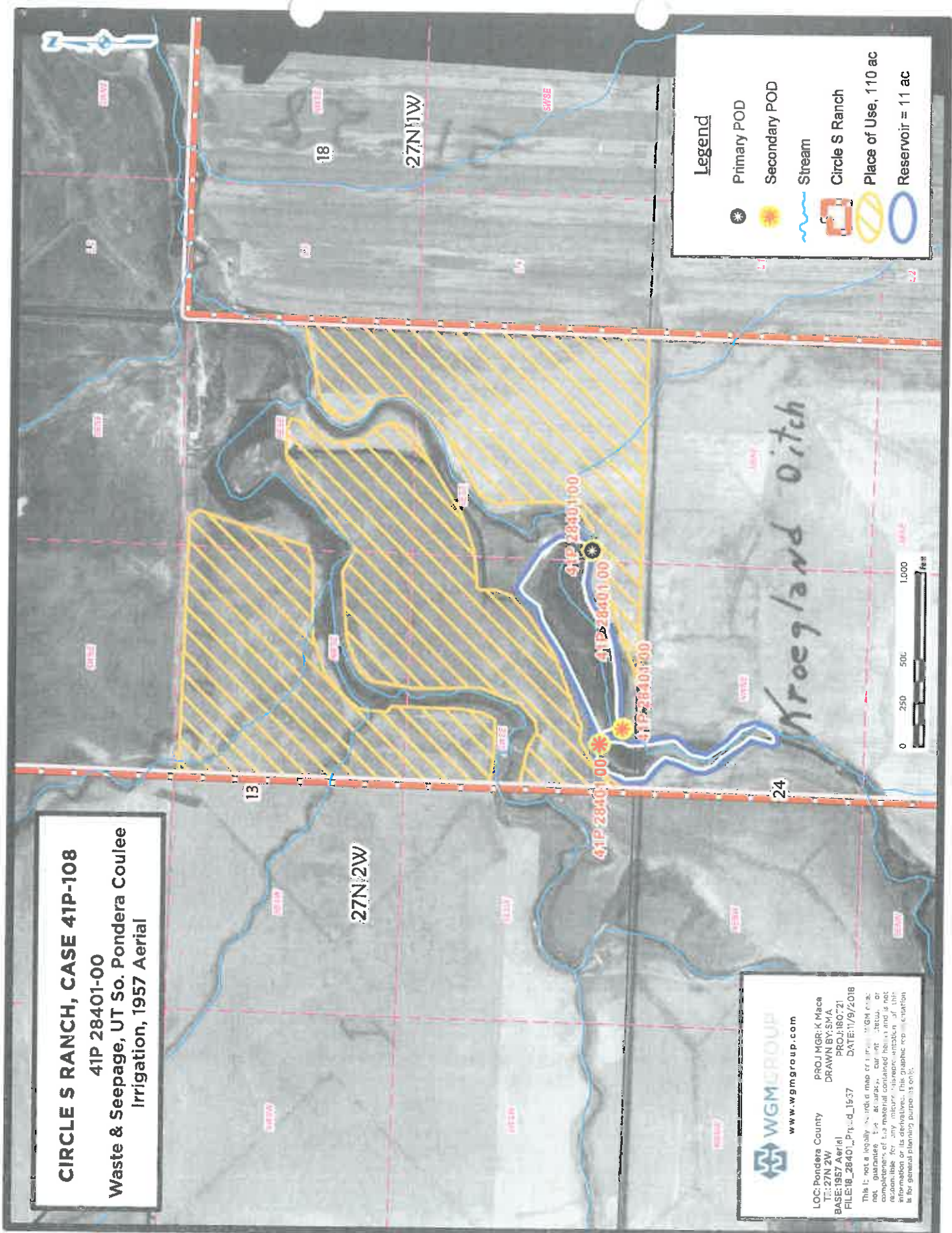
Legend

WGME GROUP
www.wgmgroupp.com

LOC: Pondera County
T: 27N 2W
BASE: 1957 Aerial
FILE: 18_28401_P1.d 1957

PROJ: MGR: K. Wace
DRAWN BY: SVA
PROJ: 180721
DATE: 11/9/2018

This is not a legally binding map or plan. WGME does not guarantee the accuracy, completeness, or completeness of the material contained herein and is not responsible for any inaccuracies or omissions. The graphic representation is for general planning purposes only.



PROPOSED GENERAL ABSTRACT

Water Right Number: 41P ~~Implied Claim (from 41P 28401 00)~~ STATEMENT OF CLAIM

Owners: CIRCLE S RANCH INC
PO BOX 131
BRADY, MT 59416

Priority Date: SEPTEMBER 6, 1924 Enforceable Priority Date: SEPTEMBER 6, 1924

Type of Historical Right: FILED

Purpose (use): IRRIGATION Irrigation Type: FLOOD

Maximum Flow Rate: ~~4.17 CFS~~
~~THE FLOW RATE OF THIS CLAIM HAS BEEN REDUCED TO 17 GPM PER ACRE. THE FLOW RATE MAY BE CONTESTED BY PROPER OBJECTION. A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.~~

Maximum Volume: ~~THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE. 88 AF~~

Climatic Area: 3 - MODERATE

Maximum Acres: 110

Source Name: ~~WASTE & SEEPAGE, UNNAMED TRIBUTARY OF SOUTH PONDERA COULEE~~
Source Type: SURFACE WATER AKA BRADY COULEE

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1 (PRIMARY)			SWSSE	13	27N	2W PONDERA
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	DAM					
1 (SECONDARY)			SWSSE	13	27N	2W PONDERA
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	DRAIN DITCH					
2 (SECONDARY)			SWSWSE	13	27N	2W PONDERA
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	DRAIN DITCH					
3 (SECONDARY)			SWSWSE	13	27N	2W PONDERA
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	DRAIN DITCH					
					Ditch Name:	KROEGLAND DITCH

Reservoir:

Type	Govt Lot	Qtr Sec	Section	Twp	Rge	County
DAM			S2SE	13	27N	2W PONDERA
Max Depth (ft)	Surface Area (ac)		Capacity (ac-ft)			
10	11		44			

Period of Use: APRIL 1 TO OCTOBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	110		SE	13	27N	2W	PONDERA
Total:	110						

28401
I-1

PROPOSED GENERAL ABSTRACT

Water Right Number: 41P **Implied Claim** (from 41P 28401 00) STATEMENT OF CLAIMOwners: CIRCLE S RANCH INC
PO BOX 131
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Enforceable Priority Date: **SEPTEMBER 6, 1924** MAY 1, 1930

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Climatic Area: 3 - MODERATE

Maximum Acres: 110

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Source Type: SURFACE WATER AKA BRADY COULEE

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Diversion Means:	DAM					
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Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	DRAIN DITCH					
2 (SECONDARY)		SWSWSE	13	27N	2W	PONDERA
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	DRAIN DITCH					
3 (SECONDARY)		SWSWSE	13	27N	2W	PONDERA
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	DRAIN DITCH					
Ditch Name:	KROEGLAND DITCH					

Reservoir:

Type	Govt Lot	Qtr Sec	Section	Twp	Rge	County
DAM		S2SE	13	27N	2W	PONDERA
Max Depth (ft)	Surface Area (ac)		Capacity (ac-ft)			
10	11		44			

Period of Use: APRIL 1 TO OCTOBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	110		SE	13	27N	2W	PONDERA
Total:	110						

28401
I.(2)

PROPOSED GENERAL ABSTRACT

(continued:) Water Right Number: 41P Implied Claim (from 41P 28401 00) STATEMENT OF CLAIM

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

XXXXX-00 (IMPLIED STOCK) XXXXX-00 (IMPLIED 9/3/1924 IRRIGATION, THIS CLAIM)

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

28400-00 28401-00 XXXXX-00 XXXXX-00

PROPOSED GENERAL ABSTRACT

(continued:) Water Right Number: 41P Implied Claim (from 41P 28401 00) STATEMENT OF CLAIM

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

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28400-00 28401-00 XXXXX-00 XXXXX-00

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office@mtwaterlaw.com
abby@mtwaterlaw.com

Attorney for Circle S Ranch, Inc.

**IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION MARIAS RIVER – BASIN 41P**

CLAIMANT: Circle S Ranch, Inc.

OBJECTOR: Circle S Ranch, Inc.

CASE NO. 41P-108

41P 28392-00
41P 28393-00
41P 28394-00
41P 28395-00
41P 28396-00
41P 28397-00
41P 28398-00
41P 28399-00
41P 28400-00
41P 28401-00

DECLARATION OF JOE PERRY

I, Joe Perry, pursuant to Mont. Code Ann. § 1-6-105, declare under penalty of perjury:

1. I am over the age of 18 and a resident of Pondera County, Montana. I am the President of Circle S Ranch, Inc. Circle S Ranch owns the above-captioned water rights.
2. I filed self-objections to the above-captioned water rights to correct and clarify the historical elements of the rights so that each claim reflects its pre-July 1, 1973 historical use.
3. I purchased the real property owned by Circle S Ranch from my aunt and uncle, Albert and Nellie Schlepp. The Schlepps owned the real property prior to July 1, 1973.
4. I am personally familiar with the historical use of the above-captioned water rights because my aunt and uncle, the Schlepps, informed me of their water use practices. The Schlepps' water user predates July 1, 1973.

5. With regard to water right claim 41P 28396-00, livestock drink from both the connected reservoirs as well as directly from South Pondera Coulee, just as they did prior to July 1, 1973 when my aunt and uncle owed the real property.
6. With regard to water right claim 41P 28397-00, livestock drink from the reservoir as well as directly from the stream, just as they did prior to July 1, 1973 when my aunt and uncle owed the real property. The stream is an unnamed tributary of Pondera Coulee.
7. With regard to water right claim 41P 28398-00, livestock drink from the reservoir as well as directly from the stream, just as they did prior to July 1, 1973 when my aunt and uncle owed the real property.
8. I mistakenly withdrew claim 41P 28400-00 upon advice from DNRC that 41P 28400-00 was a duplicate filing of claim 41P 28401-00. At that time, I did not understand that water rights with different historical bases and priority dates must have unique claims, even if they irrigate the same place of use and are supplemental. Later, I became more educated about water rights and therefore timely self-objected to water right claim 41P 28400-00 to have it reinstated.

I declare under penalty of perjury that the foregoing is true and correct.

_____ Joe Perry Brady, Pondera County, Montana	_____ Date
--	---------------

5. With regard to water right claim 41P 28396-00, livestock drink from both the connected reservoirs as well as directly from South Pondera Coulee, just as they did prior to July 1, 1973 when my aunt and uncle owned the real property.
6. With regard to water right claim 41P 28397-00, livestock drink from the reservoir as well as directly from the stream, just as they did prior to July 1, 1973 when my aunt and uncle owned the real property. The stream is an unnamed tributary of Pondera Coulee.
7. With regard to water right claim 41P 28398-00, livestock drink from the reservoir as well as directly from the stream, just as they did prior to July 1, 1973 when my aunt and uncle owned the real property.
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I declare under penalty of perjury that the foregoing is true and correct.


Joe Perry
Grady, Pondera County, Montana

2/19/19
Date

